

REMARKS

I. Status of the Claims

Claims 1-11 are pending in the application.

Claims 1-11 are rejected.

II. Claim Rejections

A. 35 USC §102

Claims 1-10 are rejected under 35 USC §102(e) as being anticipated by Endres *et al.*

Applicant respectfully traverses this rejection. As set forth in MPEP §2131, a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described in a single prior art reference. The identical invention must be shown in as complete detail as contained in the claim. The elements must be arranged as required by the claim.

Claim 1 is directed to *a rocker switch assembly, comprising:*

*a switch body including switch contacts;
a mounting strap engaged with the switch body;
a frame attached to the switch body; and
a paddle for actuating the switch contacts,
wherein the paddle has a pivot structure cooperatively engageable with a
portion of the frame for selective rotational movement around a pivot axis
between a limited forwardly-tilted position and a limited rearwardly-tilted
position, further wherein the paddle has a uni-convex cylindrical exterior
surface with a curvature, Rp.*

Endres discloses a rocker switch mechanism that includes a rocker paddle (the face). As expressly set forth in Col. 2, lines 24-30: *...on/off switch operated by pushing on the lower portion of a rocker paddle to turn the switch on or off. The lower edge of the rocker paddle pivots in and out about its top or upper edge. Bias means urges the lower portion of the rocker paddle to always be in its out position whether the switch is in the 'on' state position*

or the 'off' state position (emphasis added). This clearly does not allow the paddle to have the feature of *selective rotational movement around a pivot axis between a limited forwardly-tilted position and a limited rearwardly-tilted position*, as required by applicant's claim 1.

Accordingly, the rejection is improper and should be withdrawn.

As claims 2-10 depend from claim 1, Endres is a defective anticipatory reference against these claims as well. Moreover, contrary to the examiner's naked assertions regarding:

Claim 3: Endres does not disclose a paddle having *an upper and a lower circumferential surface each having a curvature, R_B , the center of which originates along the pivot axis*. The pivot arrangement in Endres does not allow this.

Claim 4: Endres does not disclose that *one of the upper and the lower circumferential surfaces engages a space intermediate a portion of the mounting strap and a surface of the frame in one of the forwardly-tilted position and the rearwardly-tilted position*. The space referred to in the examiner's reproduction of Fig. 19 is not between the mounting strap and a surface of the frame; the alleged space is not engaged by either an upper or a lower circumferential surface of the paddle; nor does Endres disclose the forwardly-tilted/rearwardly-tilted position limitation recited by applicant.

Claim 8: Endres does not disclose that *a portion of the convex profile of the paddle surface is substantially tangent to a corresponding portion of a convex cross sectional profile of the faceplate surface when the paddle is in one of the forwardly-tilted position and the rearwardly-tilted position, whereby no portion of the paddle surface extends beyond the faceplate surface*.

Claim 9: Endres does not disclose that *an axial centerline of the faceplate opening and an axial centerline of the paddle have a constant intersection point along the pivot axis*. They cannot have a constant intersection point along the pivot axis based on the hinged pivot arrangement of Endres.

Claim 10: Endres does not disclose that *the upper and opposing lower inner surfaces of the faceplate opening perimeter have a curvature, R_A , the center of which originates along the pivot axis*.

As the examiner is required to point out the identical invention in as complete detail as contained in the claims, which has not been done, the rejections are improper and should be withdrawn.

B. 35 USC §103

Claim 11 is rejected under 35 USC §103(a) as being unpatentable over Endres *et al.* Applicant respectfully traverses this rejection on the basis that the Examiner has failed to establish a *prima facie* case of obviousness. The initial burden of establishing a *prima facie* basis to deny patentability to a claimed invention is always upon the Examiner. *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992); *In re Piasecki*, 745 F.2d 1468, 223 USPQ 785 (Fed. Cir. 1984). In applying either a single reference or combination of references to assert obviousness of Applicant's claim(s), "the Examiner must step backward in time and into the shoes worn by the hypothetical 'person of ordinary skill in the art' when the invention was unknown and just before it was made." MPEP §2142. The Examiner must put aside knowledge of the Applicant's disclosure, refrain from using hindsight, and consider the subject matter claims "as a whole". (*See Panduit v. Dennison Mfg. Co.*, 774 F.2d 1082, 227

USPQ 337 (Fed. Cir. 1985), vacated, 475 US 809, 229 USPQ 478 (1986), *aff'd* on remand, 810 F.2d 1561, 1 USPQ2d 1593 (Fed. Cir. 1987).

The rejected claim is dependent from independent claim 1, which was rejected by the examiner. Applicant has traversed that rejection as discussed above. Therefore, the rejection of claim 11 is improper and should be withdrawn.

III. Conclusion

Based on all of the foregoing, Applicant respectfully requests reconsideration of the rejected claims and issuance of the pending claims as a patent.

Applicant believes that no extension of time is necessary to make this Response timely. Should Applicant be in error, Applicant respectfully requests that the Office grant such time extension pursuant to 37 C.F.R. §1.136(a) as necessary to make this Response timely, and hereby authorizes the Office to charge any necessary fee or surcharge with respect to said time extension to the deposit account of the undersigned firm of attorneys, Deposit Account 50-1546.

Please direct any questions or comments to William Greener at (607) 330-4012.

Respectfully submitted,

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